



Attorney Docket No. 1671/004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group Art Unit 1615 : PATENT APPLICATION

Examiner Neil Levy :

In re application of : **DEVICE FOR CONTAINING
ANIMAL REPELLANT AND
ATTRACTANT COMPOSITIONS**

M. WEISER :

Serial No. 09/842,963 :

Filed April 27, 2001 :

DECLARATION UNDER 37 C.F.R. § 1.132

Pittsburgh, Pennsylvania 15222

January 27, 2006

Hon. Commissioner of Patents and Trademarks

Washington, D.C. 20231

I, Mark J. Weiser, of Evans City, Pennsylvania, state:

I am a citizen of the United States, and I reside at 122 Beahm Crest Lane, Evans City, Pennsylvania 16033.

I am the inventor of the device described in the above-identified patent application.

I have been self-employed in the outdoor recreational industry for approximately twenty years. The outdoor recreational industry includes products used for hunting, gardening and animal communication.

In 1990, I began developing certain animal communication products, including animal scent products and localization call devices in connection with extensive research and development with regard to how animals are repelled or attracted based on their communication through scent. I formulate both attractant and repellent compositions that include ingredients such as gland secretions and urine in addition to other natural substances. I optimize the formulation percentages through the analysis of land plot statistical data gathered from field testing.

I have been granted several patents for animal communication products including Animal Scent Enhancer, United States Patent No. 6,149,901, issued November 21, 2000. I have also been granted two additional patents for deer localization call devices, Adjustable Deer Calls, United States Patent No. 6,053,794, issued April 25, 2000 and Deer Calls, United States Patent No. 6,106,357, issued April 22, 2000.

I provide both field and classroom instructional seminars on animal communication products, including my own products. The seminar attendees include writers and biologists in the outdoor recreational industry. During the seminars I instruct the attendees regarding the scientific basis for the function of the currently marketed devices. Most recently, I hosted seminars in Ohio in October and November 2005 and in Texas in January 2006.

I have been interviewed and quoted in several periodicals regarding attractant/repellent compositions and devices and other animal communication products, which have been published in both regional and national publications including *Bow Hunter*, *Deer and Deer Hunting*, and *Pennsylvania Outdoor Times*. Most recently I was interviewed for an article that was published in the December 2005 issue of *Heartland Outdoors* at pages 64-67. I was also interviewed for an

article that was published in the December 2005 issue of *River Country Outdoor Magazine* at pages 10-11.

I am featured in pre-recorded segments of approximately 3-5 minutes in length regarding attractant/repellent compositions and devices and other animal communication products, which are frequently televised during the television show "*Hunting with Penns Woods*," which airs on The Men's Channel, The Sportsman's Channel and Fox Sports Pittsburgh. I am also featured on a one-half hour national television show, "*Gone Huntin' Outdoors*," which is due to air in 2006.

I am featured in a ten-minute segment on an instructional DVD, "Strongbuilt Outdoors" Vol. 1, regarding certain topics, including attractant/repellent compositions and devices and other animal communication products. The instructional DVD is produced by Strongbuilt, Inc., a manufacturer of outdoor recreational products such as tree-stands utilized for hunting.

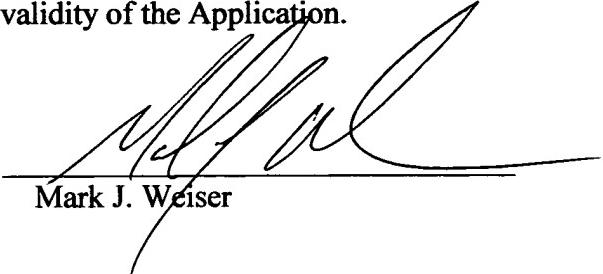
I have examined the Ishihara and Bell prior art references cited by the Patent Office Examiner in the Office Action dated November 2, 2005. Based on my knowledge through extensive research and testing in the animal communications products industry, liquid urine products are incompatible with the functionality of the Ishihara device. In fact, the use of the use of liquid urine in place of water in the Ishihara device is impractical if not hazardous.

Generally, urine products produce an ammonia gas when the urine product is exposed to the natural environment. With regard to the construction of Ishihara and the addition of urine as the activation liquid, fluctuations in temperature of the natural environment and other weather changes may cause the build-up of the ammonia gas inside the device. As a result, the device must expand to accommodate for the presence of the gas build-up. Once the gas pressure inside the device reaches a certain level, the gas must be released from the device. Instead of being slowly released from the Ishihara device, the ammonia gas would be expelled through the liquid

outlet. Once the gas is released from the device and dissipated into the surrounding environment, the device is no longer functional for the purpose of prolonged scent release. Further, the quick release of the ammonia gas through the liquid outlet would cause the additional contents to be expelled from the device. If the envelope contained any toxic or hazardous chemicals, such chemicals would be released into the environment.

Declarant states that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the Application.

Date: 1-27-06


Mark J. Weiser